

**CHAPTER 33-03-14**  
**CONSTRUCTION STANDARDS FOR SMALL INTERMEDIATE CARE**  
**FACILITIES FOR THE MENTALLY RETARDED**

Section	
33-03-14-01	Definitions
33-03-14-02	Location of Intermediate Care Facility for the Developmentally Disabled - Hazardous Areas
33-03-14-03	Fire Safety
33-03-14-04	Water Supply
33-03-14-05	Sewage Disposal
33-03-14-06	Physical Plant
33-03-14-07	Day Service Facility
33-03-14-08	Variance

**33-03-14-01. Definitions.** In this chapter, unless the context or subject matter requires otherwise:

1. "Ambulatory" means able to walk without assistance.
2. "Day service facility" means a nonresidential building in which a variety of activities are provided to maximize the developmental potential of persons served.
3. "Department" means the state department of health.
4. "Developmental disability" has the same meaning as in North Dakota Century Code chapter 25-01.2.
5. "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.
6. "Nonambulatory" means unable to walk without assistance.
7. "Nonmobile" means unable to move from place to place.
8. "Small intermediate care facility for the ambulatory developmentally disabled" means a facility of residential character having sleeping space for no more than fifteen ambulatory residents capable of taking action for self-preservation.
9. "Small intermediate care facility for the mobile nonambulatory, nonambulatory, and nonmobile developmentally disabled" means a facility of residential character having sleeping space for no more than

fifteen mobile nonambulatory, nonambulatory, or nonmobile residents incapable of taking action for self-preservation.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

**33-03-14-02. Location of intermediate care facility for the developmentally disabled - Hazardous areas.**

1. Intermediate care facilities for the developmentally disabled shall be located at least three hundred feet [91.44 meters] from hazardous areas such as bulk fuel or chemical storage areas, anhydrous ammonia facilities, or other fire hazards or sources of noxious or odoriferous emissions.
2. Intermediate care facilities for the developmentally disabled may not be located in areas subject to adverse environmental conditions such as mud slides, harmful air pollution, smoke or dust, sewage hazards, rodent or vermin infestations, excessive noise, vibration, or vehicular traffic.
3. Intermediate care facilities for the developmentally disabled may not be located in an area within the one hundred year base flood elevations unless:
  - a. The facility is covered by flood insurance as required by 42 U.S.C. 4101; or
  - b. The finished lowest floor elevation is above the one hundred year base flood elevation and the facility is free from significant adverse effects of the velocity of moving water or by wave impact during the one hundred year flood.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

**33-03-14-03. Fire safety.**

1. Small intermediate care facilities for the developmentally disabled shall be located in areas served by a fire extinguishing organization approved by the state fire marshal.
2. Small intermediate care facilities for the ambulatory developmentally disabled shall comply with chapter 20 of the 1981 edition of the Life Safety Code. The use of chapter 20 rather than chapter 12 is permitted by 42 CFR 442.508 when a physician or psychologist, who meets the

definition of a qualified mental retardation professional under paragraph 42 CFR 442.401, certifies that each resident served will:

- a. Be ambulatory;
  - b. Receive active treatment; and
  - c. Be capable of following directions and taking appropriate action for self-preservation under emergency conditions.
3. A small intermediate care facility for the mobile nonambulatory, nonambulatory, and nonmobile shall comply with chapter 12 of the 1981 edition of the Life Safety Code. The fire safety evaluation system may be utilized in the design of the facility and in the evaluation of an existing building.

**History:** Effective September 1, 1983; amended effective January 1, 1985.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

#### **33-03-14-04. Water supply.**

1. Intermediate care facilities for the developmentally disabled shall be located in areas where public or private water supplies approved by the department are available. Approved public water supplies shall be used where available.
2. When a private water supply is utilized, water samples shall be submitted to the department and analyzed to determine bacteriological acceptability.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

#### **33-03-14-05. Sewage disposal.**

1. Intermediate care facilities for the developmentally disabled shall be located in areas where public or private sewage disposal systems approved by the department are available. Approved public sewage disposal systems shall be used where available.
2. Plans and specifications for proposed private sewage disposal systems or alteration to such systems must be approved by the department prior to their construction.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

**33-03-14-06. Physical plant.** Buildings housing a small intermediate care facility for the developmentally disabled shall:

1. Provide a design making:
  - a. The small intermediate care facility for the ambulatory developmentally disabled accessible to nonambulatory visitors and employees, with at least one bathroom accessible to and usable by such visitors and employees. When the facility is accessible and the bathroom provided, the balance of the handicapped standards may be waived by the department as provided for in 42 CFR 442.511. The waiver will be granted when only ambulatory developmentally disabled persons are served as listed under subsection 2 of section 33-03-14-03.
  - b. The small intermediate care facility for the mobile nonambulatory, nonambulatory, and nonmobile developmentally disabled comply with North Dakota Century Code section 48-02-19.
2. Be constructed to accommodate no more than fifteen eligible residents.
3. Be limited in size to a maximum of three hundred fifty square feet [32.52 square meters] per resident, inclusive of space for two employees. Facilities of more than eight resident beds shall be limited to one hundred seventy-five square feet [16.26 square meters] per additional resident bed.
4. Be of modest design minimizing the length of hallways, the number of exterior corners, and complexity of construction.
5. Provisions for its conversion to an alternate use at a reasonable cost.
6. Provide space for dining, kitchen, family living and recreation, utility, and bedrooms as an integral part of a single structure.
7. Provide these sleeping area standards:
  - a. Require no more than two residents to share a bedroom other than on a temporary basis.
  - b. Provide no less than one hundred square feet [9.29 square meters] of floor area exclusive of bathroom and closet space for single occupancy bedrooms.
  - c. Provide no less than eighty square feet [7.43 square meters] per bed of floor space exclusive of closet and bathroom space in double occupancy bedrooms.

- d. Locate bedrooms on an outside wall and separate them from other rooms and spaces by walls extending from floor to ceiling.
  - e. Locate bedrooms at or above grade level.
- 8. Provide at least one full bathroom for every four residents.
- 9. Be designed to accommodate the resident's privacy, with bedrooms and bathrooms arranged to provide separation of male and female residents.
- 10. Provide sufficient space in the kitchen to permit the participation of residents as well as staff in food preparation. Provide appropriate space and equipment, including a two-compartment sink, to adequately serve the food preparation and storage requirements of the facility.
- 11. Provide sufficient laundry space to include, in addition to a washer and dryer, storage for laundry supplies, accommodation for ironing, and counterspace for folding clothing and linens.
- 12. Provide staff accommodations:
  - a. Space to accommodate employees, limited to a living room, efficiency kitchen, one full bathroom, and a double occupancy bedroom, when, as a condition of employment, they must live onsite; or
  - b. A multipurpose space usable for sleeping for employees serving in shifts.
- 13. Provide sufficient storage, in addition to closet space, to accommodate the storage of out-of-season clothing, outdoor furniture, garden tools, lawnmower, and other equipment.
- 14. Provide a tempering valve, located to preclude resident access, to control the temperature of hot water supplied to lavatories and bathing facilities. The tempering valve shall permit control of temperature in the range of one hundred ten degrees Fahrenheit [47.22 degrees Celsius] to one hundred thirty-five to one hundred forty degrees Fahrenheit [57.22 to 60 degrees Celsius]. Hot water supplied to clotheswashers and dishwashers shall be one hundred thirty-five to one hundred forty degrees Fahrenheit [57.22 to 60 degrees Celsius].
- 15. Be equipped with emergency lighting capable of sustained battery operation.

**History:** Effective September 1, 1983; amended effective January 1, 1985.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

**33-03-14-07. Day service facility.** Day service facilities providing services to eligible developmentally disabled residents shall comply with the requirements of chapter 10 of the 1981 edition of the Life Safety Code, whether the facilities are constructed, reconstructed, or acquired.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04

**33-03-14-08. Variance.** Upon written application, the department may grant a variance from specific provisions of this chapter, except no variance may permit or authorize a danger to the health or safety of residents or impede their normalization process.

**History:** Effective September 1, 1983.

**General Authority:** NDCC 6-09.6-04

**Law Implemented:** NDCC 6-09.6-04